"बिजनेस पोस्ट के अन्तर्गत डाक शुल्क के नगद भुगतान (बिना डाक टिकट) के प्रेषण हेतु अनुमत. क्रमांक जी.2-22-छत्तीसगढ़ गजट / 38 सि. से. भिलाई, दिनांक 30-05-2001."

पंजीयन क्रमांक
"छत्तीसगढ़/दुर्ग/09/2013-2015."

छत्तीसगढ़ राजपत्र

(असाधारण)

प्राधिकार से प्रकाशित

क्रमांक 528] रायपुर, मंगलवार, दिनांक 5 दिसम्बर 2017 — अग्रहायण 14, शक 1939

विधि और विधायी कार्य विभाग
मंत्रालय, महानदी भवन, नया रायपुर

नया रायपुर, दिनांक 5 दिसम्बर 2017

क्रमांक 11610/डी. 226/21-अ/प्रा./छ. ग./17.— भारत सरकार, विधि और न्याय मंत्रालय, विधायी विभाग के पत्र क्रमांक 2 (13)/ 17-Leg. I/ नई दिल्ली, दिनांक 23-11-2017 के अनुसरण में दि इन्सॉल्वेन्सी एण्ड बैंक्रप्ट्सी कोड (अमेंडमेन्ट) ऑर्डिनेंस, 2017 (क्रमांक 7 सन् 2017) एतद्द्वारा सर्वसाधारण की जानकारी हेतु पुन: प्रकाशित की जाती है.

छत्तीसगढ़ के राज्यपाल के नाम से तथा आदेशानुसार,
टी. सी. त्रिपाठी, उप-सचिव.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 23rd November, 2017/Agrahayana 2, 1939 (Saka)

THE INSOLVENCY AND BANKRUPTCY CODE (AMENDMENT) ORDINANCE, 2017

No. 7 OF 2017

Promulgated by the President in the Sixty-eighth Year of the Republic of India.

An Ordinance to amend the Insolvency and Bankruptcy Code, 2016.

WHEREAS the Insolvency and Bankruptcy Code, 2016 (the Code), inter alia, provides a framework for insolvency resolution of corporate persons in a time bound manner for maximisation of value of assets of such persons;

AND WHEREAS the provisions relating to corporate insolvency resolution process of the Code have come into force on 1st day of December, 2016;

AND WHEREAS, in order to strengthen further the insolvency resolution process, it has been considered necessary to provide for prohibition of certain persons from submitting a resolution plan who, on account of their antecedents, may adversely impact the credibility of the processes under the Code;

AND WHEREAS it is also considered necessary to make provisions to specify certain additional requirements for submission and consideration of the resolution plan before its approval by the committee of creditors;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

Short title and commencement.

1.(*1*) This Ordinance may be called the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2017.

(*2*) It shall come into force at once.

Amendment of section 2.

2. In the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the principal Act), in section 2,— 31 of 2016.

(*i*) in clause (*d*), the word "and" shall be omitted;

(*ii*) for clause (*e*), the following clauses shall be substituted, namely:—

"(*e*) personal guarantors to corporate debtors;

(*f*) partnership firms and proprietorship firms; and

(*g*) individuals, other than persons referred to in clause (*e*),".

Amendment of section 5.

3. In section 5 of the principal Act,—

(*a*) for clause (*25*), the following clause shall be substituted, namely:—

'(25) "resolution applicant" means a person, who individually or jointly with any other person, submits a resolution plan to the resolution professional pursuant to the invitation made under clause (*h*) of sub-section (*2*) of section 25;';

(*b*) in clause (*26*), for the words "any person", the words "resolution applicant" shall be substituted.

Amendment of section 25.

4. In section 25 of the principal Act, in sub-section (*2*), for clause (*h*), the following clause shall be substituted, namely:—

"(*h*) invite prospective resolution applicants, who fulfil such criteria as may be laid down by him with the approval of committee of creditors, having regard to the complexity and scale of operations of the business of the corporate debtor and such other conditions as may be specified by the Board, to submit a resolution plan or plans.".

Insertion of new section 29A.

5. After section 29 of the principal Act, the following section shall be inserted, namely:—

Persons not eligible to be resolution applicant.

"29A. A person shall not be eligible to submit a resolution plan, if such person, or any other person acting jointly with such person, or any person who is a promoter or in the management or control of such person,—

(*a*) is an undischarged insolvent;

(*b*) has been identified as a wilful defaulter in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949; (10 of 1949.)

(*c*) whose account is classified as non-performing asset in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949 and period of one year or more has lapsed from the date of such classification and who has failed to make the payment of all overdue amounts with interest thereon and charges relating to non-performing asset before submission of the resolution plan; (10 of 1949.)

(*d*) has been convicted for any offence punishable with imprisonment for two years or more; or

(*e*) has been disqualified to act as a director under the Companies Act, 2013; (18 of 2013.)

(*f*) has been prohibited by the Securities and Exchange Board of India from trading in securities or accessing the securities markets;

(*g*) has indulged in preferential transaction or undervalued transaction or fraudulent transaction in respect of which an order has been made by the Adjudicating Authority under this Code;

(*h*) has executed an enforceable guarantee in favour of a creditor, in respect of a corporate debtor under insolvency resolution process or liquidation under this Code;

(*i*) where any connected person in respect of such person meets any of the criteria specified in clauses (*a*) to (*h*).

Explanation.— For the purposes of this clause, the expression "connected person" means—

(*i*) any person who is promoter or in the management or control of the resolution applicant; or

(*ii*) any person who shall be the promoter or in management or control of the business of the corporate debtor during the implementation of the resolution plan; or

(*iii*) the holding company, subsidiary company, associate company or related party of a person referred to in clauses (*i*) and (*ii*)

(*j*) has been subject to any disability, corresponding to clauses (*a*) to (*i*), under any law in a jurisdiction outside India.".

Amendment of section 30.

6. In section 30 of the principal Act, for sub-section (*4*), the following sub-section shall be substituted, namely:—

"(4) The committee of creditors may approve a resolution plan by a vote of not less than seventy-five per cent. of voting share of the financial creditors, after considering its feasibility and viability, and such other requirements as may be specified by the Board:

Provided that the committee of creditors shall not approve a resolution plan, submitted before the commencement of the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2017, where the resolution applicant is ineligible under section 29A and may, where no other resolution plan is available with it, require the resolution professional to invite a fresh resolution plan.".

Amendment of section 35.

7. In section 35 of the principal Act, in sub-section (*1*), in clause (*f*), the following proviso shall be inserted, namely:—

"Provided that the liquidator shall not sell the immovable and movable property or actionable claims of the corporate debtor in liquidation to any person who is not eligible to be a resolution applicant.".

Insertion of new section 235A.

8. After section 235 of the principal Act, the following section shall be inserted, namely:—

Punishment where no specific penalty or punishment is provided.

"235A. If any person contravenes any of the provisions of this Code or the rules or regulations made thereunder for which no penalty or punishment is provided in this Code, such person shall be punishable with fine which shall not be less than one lakh rupees but which may extend to two crore rupees.".

Amendment of section 240.

9. In section 240 of the principal Act, in sub-section (*2*),—

(*i*) after clause (*s*), the following clause shall be inserted, namely:—

"(*sa*) other conditions under clause (*h*) of sub-section (*2*) of section 25;",

(*ii*) after clause (*w*), the following clause shall be inserted, namely:—

"(*wa*) other requirements under sub-section (*4*) of section 30;".

RAM NATH KOVIND,
President.

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

संचालक, मुद्रण तथा लेखन सामग्री, छत्तीसगढ़ द्वारा शासकीय मुद्रणालय, रायपुर से मुद्रित तथा प्रकाशित - 2017.